

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 0:22-CV-61136-LEIBOWITZ/AUGUSTIN-BIRCH

HYBRID PHARMA LLC,

Plaintiff,

v.

**MATTHEW KNISPEL, MARK
WHITTEN, and ROBERT DIFIORE,**

Defendants.

REPORT AND RECOMMENDATION ON DEFENDANTS' MOTION FOR COSTS

This matter comes before the Court on the Motion for Costs of Defendants Matthew Knispel, Mark Whitten, and Robert Difiore, in which they request that costs totaling \$14,281.34 be taxed against Plaintiff Hybrid Pharma LLC. DE 187. The Honorable David S. Leibowitz, United States District Judge, referred the Motion for Costs to the undersigned United States Magistrate Judge for appropriate disposition. DE 189. Thereafter, the parties filed a Stipulation on Taxable Costs. DE 190. The parties explain that they have agreed to costs totaling \$13,336.34 to be taxed against Plaintiff, consisting of \$270 in fees to serve subpoenas and \$13,066.34 in costs for transcripts necessarily obtained for use in this case. *Id.*

“Unless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing party.” Fed. R. Civ. P. 54(d)(1). Defendants are prevailing parties due to case-dispositive summary judgment being granted in their favor. *See* DE 177; *Espinosa v. Burger King Corp.*, No. 11-62503-CIV, 2012 WL 5364236, at *1 (S.D. Fla. Oct. 30, 2012) (“Here, because Defendant was granted summary judgment on all of Plaintiff’s claims, Defendant is the prevailing party and is entitled to recover taxable costs as allowed by

[28 U.S.C. §] 1920.”). Fees for service and costs for transcripts necessarily obtained for use in the case are taxable costs. 28 U.S.C. § 1920(2); *Guerra v. Ameri-Clean Pumping, Inc.*, No. 18-22998-CV, 2019 WL 1859243, at *4 (S.D. Fla. Apr. 25, 2019) (“Plaintiff may also recover the costs associated with service of process. Service of process fees must not, however, exceed the cost of having the United States marshal effectuate service – a cost currently capped at \$65.00 per hour.”).

Accordingly, the Court recommends that Defendants’ Motion for Costs [DE 187] be **GRANTED IN PART AND DENIED IN PART**. In accordance with the parties’ Stipulation on Taxable Costs [DE 190], the Court recommends that \$13,336.34 in costs be taxed against Plaintiff and in favor of Defendants. Also in accordance with the parties’ Stipulation on Taxable Costs, the Court recommends that a judgment on costs not be entered at this time. Defendants may move for entry of judgment should they wish that a judgment be entered.

Within fourteen days after being served with a copy of this Report and Recommendation, any party may serve and file written objections to any of the above findings and recommendations. 28 U.S.C. § 636(b)(1); S.D. Fla. Mag. R. 4(b). The parties are hereby notified that a failure to timely object waives the right to challenge on appeal the District Court’s order based on unobjected-to factual and legal conclusions contained in this Report and Recommendation. 11th Cir. R. 3-1.

DONE AND SUBMITTED in Chambers at Fort Lauderdale, Florida, this 11th day of October, 2024.



PANAYOTTA AUGUSTIN-BIRCH
UNITED STATES MAGISTRATE JUDGE